IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 1176 OF 2002

IN

SUIT NO. 5086 OF 1998

J.P. Karwa .....**Plffs.**
vs.
Mr. Basant Bhoruka .....**Defnds.**

M.P.S. Rao i/b. Shreeji Lal
for the plaintiffs.
C.T. Chandratre a/w. Mrs. K.S. Kambli
i/b. Mr. M.V.Thorat
for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 6th October, 2005.

P.C. :.

1. The present motion is taken out for production of the documents as per the list annexed thereto to the schedule to the said notice of motion. It is further prayed that the original of the documents should be sent to the handwriting expert for the verification of the genuineness of the said documents. A further prayer is made that the plaintiff should be directed to state on affidavit that he does not have any other documents save and except the documents relied upon in the plaint either signed or purported to have been signed by the defendant in connection with the suit. In so far as prayer (e) is concerned the plaintiffs are

directed to file an affidavit as mentioned thereof within a period of two weeks. Learned counsel for the plaintiffs states that he will file the said affidavit within the aforesaid period. In so far as prayer (a) and (b) are concerned it is not in dispute that the photostat copies of the documents has already been handed over by the plaintiffs to the defendants. In my opinion as sought prayer (a) and (b) can be granted at this stage and the same must await upto the stage of trial. Interim proceedings are already concluded and suit is awaiting trial and as and when the plaintiffs file affidavit, it will be open for the defendants to apply for the court before the commencement of trial as in terms of prayer clause (a) and (b). Today the plaintiffs have not file their affidavit of documents. The defendants have not filed written statement also. In my opinion this application is at premature stage as of today. Further learned counsel for the defendants contends that the present prayers (a) and (b) are made in the light of the prima-facie observation by the learned judge that the documents are not forged and

defendant did not obtain the permission of the handwriting expert. It is thus contended that in view thereof the present application has been taken out.

2. In my opinion interim proceedings having been concluded it cannot be merely reopened by obtaining such handwriting expert’s opinion at this stage. In that view of the matter I dismiss the prayer in so far as prayer clause (a) and (b) is concerned. Motion made absolute in terms of prayer clause (c) as mentioned hereinabove.

sd/-

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